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Attorneys for Plaintiff
Durst Corporation, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

DURST CORPORATION, INC., Plaintiff, v. AFEEL CORPORATION, Defendant.	**C.A. No. ___________________** **COMPLAINT AND DEMAND FOR JURY TRIAL**

COMPLAINT

For its Complaint against Afeel Corporation ("Afeel"), whose principal place of business, on information and belief, is located at 11100 Dana Cir., Cypress, California 90630, Plaintiff Durst Corporation, Inc. ("Durst"), whose principal place of business is located at 129 Dermody Street, Cranford, New Jersey 07016, alleges as follows:

THE PARTIES

1. Durst is a corporation duly organized and existing under the laws of the State of New Jersey, having its principal place of business at 129 Dermody Street, Cranford, New Jersey

07016.

2. Durst markets and sells products under the name "Jaclo Industries."

3. On information and belief, Afeel is a corporation organized and existing under the laws of the State of California, having its principal place of business at 11100 Dana Cir., Cypress, California 90630.

4. On information and belief, Afeel has done and continues to do business as "Huntington Brass."

NATURE OF THE ACTION

5. This is a civil action for patent infringement regarding U.S. Design Patent No. D694,357 S (the "'357 Patent") and U.S. Design Patent No. D738,991 S (the "'991 Patent") arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, *et seq.*, including but not limited to 35 U.S.C. § 271.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action involves claims arising under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*, including but not limited to 35 U.S.C. § 271.

7. On information and belief, Afeel is in the business of manufacturing, developing, commercializing, and selling products for the bath industry.

8. On information and belief, Afeel is in the business of manufacturing, developing, commercializing, and selling – among other things – showerheads.

9. Afeel offers to sell, exposes for sale, and sells products for the bath industry – such as showerheads – throughout the United States, including within this judicial district.

10. Afeel offers to sell, exposes for sale, and sells products for the bath industry –

such as showerheads – throughout the United States, including within this jurisdiction, and, on information and belief, through a website that it owns and/or maintains.

11. Afeel has been and is offering to sell, exposing for sale, and selling products that fall within the scope of the ‘357 Patent throughout the United States, including within this judicial district.

12. Afeel has committed and is committing purposeful actions that infringe the ‘357 Patent in this judicial district.

13. Afeel has been and is offering to sell, exposing for sale, and selling products that fall within the scope of the ‘991 Patent throughout the United States, including within this judicial district.

14. Afeel has committed and is committing purposeful actions that infringe the ‘991 Patent in this judicial district.

15. At the very least, by virtue of, *inter alia*, Afeel’s contacts with New Jersey, including but not limited to the above-described activities, this Court has personal jurisdiction over Afeel.

16. The activities referenced in the preceding paragraph confer personal jurisdiction over Afeel and personal jurisdiction over Afeel comports with due process.

17. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), 28 U.S.C. § 1391(c) and/or 28 U.S.C. § 1400(b).

THE CONTROVERSY

The ‘357 Patent

18. The ‘357 Patent, entitled “Showerhead,” issued on November 26, 2013.

19. A copy of the ‘357 Patent is attached as **Exhibit A**.

20. Durst is the assignee and owner of all right, title, and interest in the ‘357 Patent.

21. Durst’s status as the owner by assignment of the ‘357 Patent confers upon Durst the right to enforce the ‘357 Patent and sue for infringement thereof.

22. Durst has marked and marks products embodying the invention of the ‘357 Patent that it has been and is making, offering for sale, selling and/or importing within or into the United States in accordance with 35 U.S.C. § 287 and thus, provides notice to the public that such products are patented articles that fall within the scope of the claim of the ‘357 Patent.

23. The ‘357 Patent contains images that depict specific embodiments claimed by the ‘357 Patent.

The ‘991 Patent

24. The ‘991 Patent, entitled “Showerhead,” issued on September 15, 2015.

25. A copy of the ‘991 Patent is attached as **Exhibit B**.

26. Durst is the assignee and owner of all right, title, and interest in the ‘991 Patent.

27. Durst’s status as the owner by assignment of the ‘991 Patent confers upon Durst the right to enforce the ‘991 Patent and sue for infringement thereof.

28. The ‘991 Patent contains images that depict specific embodiments claimed by the ‘991 Patent.

The Accused Products

29. Afeel owns and/or maintains a website at least at the uniform resource locator http://www.huntingtonbrass.com/ and all related webpages (“the Afeel website”).

30. The Afeel website can be accessed in New Jersey.

31. The Afeel website displays images of various products for sale, including showerheads.

32. On information and belief, the Afeel website displays images of products that Afeel offers to sell throughout the United States, including within New Jersey

33. The Afeel website permits customers and potential customers to create an "account" through which, among other things, customers and potential customers may view and track orders of products.

34. On information and belief, customers and potential customers may use the Afeel website in New Jersey to purchase products from Afeel for delivery in New Jersey, and Afeel then ships those products to locations in New Jersey.

35. Afeel sells products in New Jersey at least through the Afeel website.

36. Certain products reflected in images on the Afeel website and/or within catalogues identifying Afeel products embody the invention claimed by the '357 Patent and/or the '991 Patent (the "Accused Products").

37. The Accused Products include, but are not limited to, products that Afeel has identified and/or identifies with the following model numbers: P1427101; P1427129; P1327101; and P1327129.

38. On information and belief, Afeel refers to a product with any of the model numbers referenced in the preceding paragraph as a "Rain Shower Head."

39. Afeel has been and is making, using, offering to sell, exposing for sale, and/or selling the Accused Products within the United States and/or importing the accused products into the United States.

40. As reflected by the Afeel website, Afeel offers to sell, exposes for sale, and sells Accused Products within the United States, including within this judicial district.

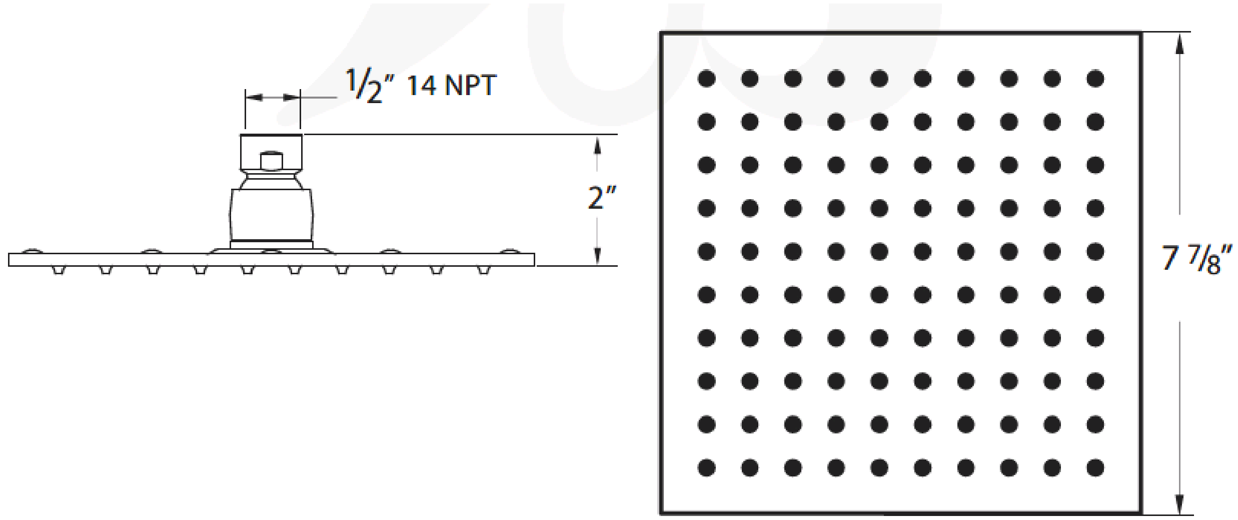
41. The Afeel website also indicates that Accused Products which are displayed for

sale on the Afeel website may be purchased at locations throughout New Jersey and specifically, at least, at 5 different locations in New Jersey which are each less than 10 miles from the Martin Luther King Building & U.S. Courthouse in Newark, New Jersey.

42. On information and belief, Afeel provides and will continue to provide others, such as retailers, with Accused Products who subsequently use, offer to sell, expose for sale, and/or sell those products within the United States.

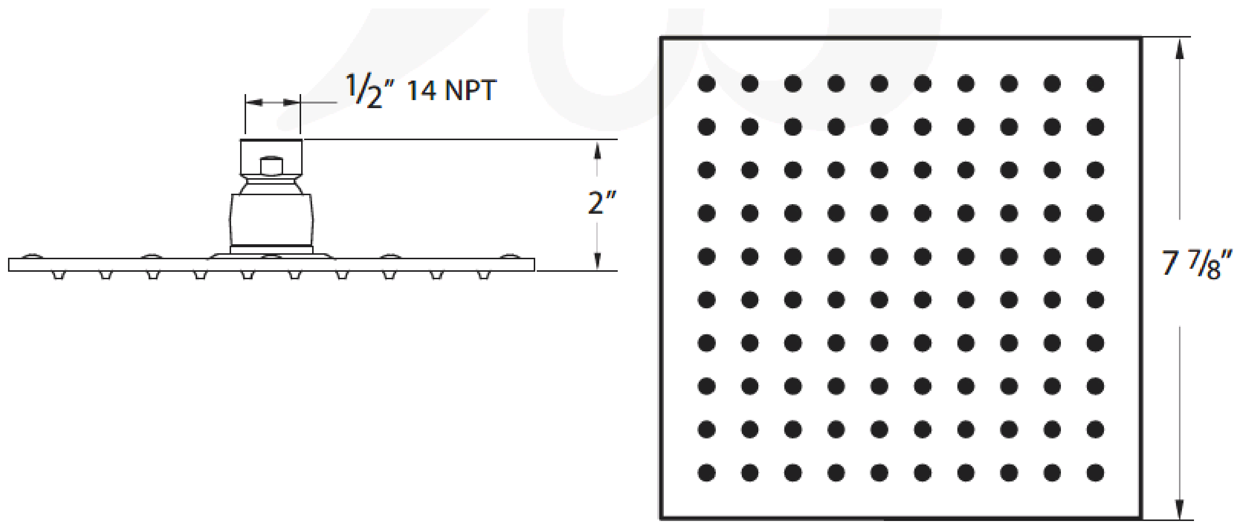
43. Afeel represents that the following image corresponds to Accused Products which have been designated with the model number P1427101:

44. A specification sheet available for download on the Afeel website regarding Accused Products which have been designated with the model number P1427101 contains the following images, which reflect the design of those products:



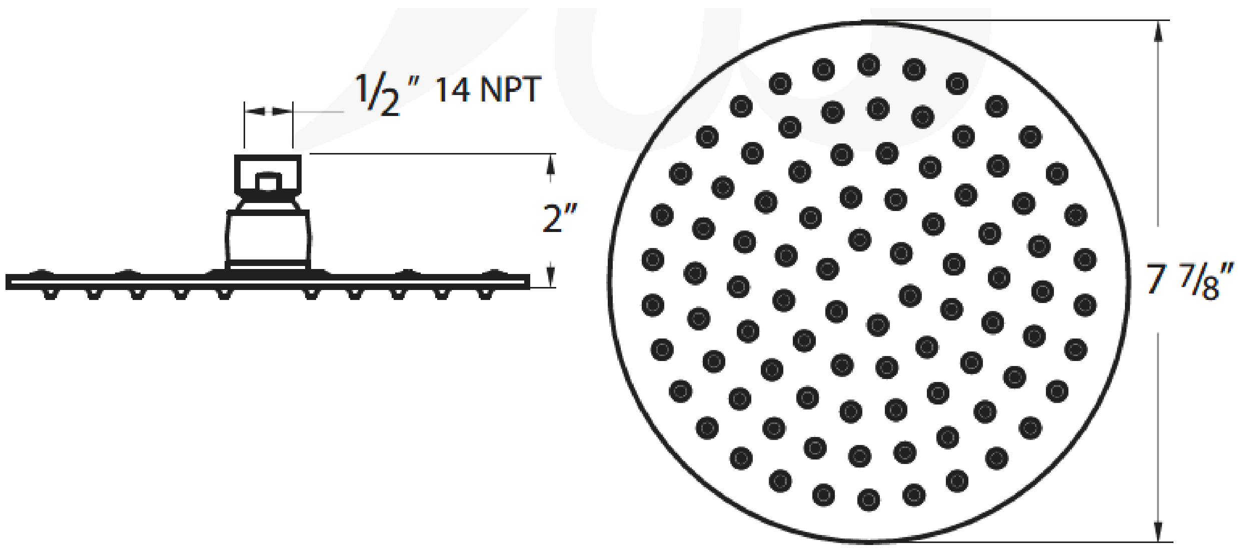
45. Afeel represents that the following image corresponds to Accused Products which have been designated with the model number P1427129:

46. A specification sheet available for download on the Afeel website regarding Accused Products which have been designated with the model number P1427129 contains the following images, which reflect the design of those products:



47. Afeel represents that the following image corresponds to Accused Products which have been designated with the model number P1327101:

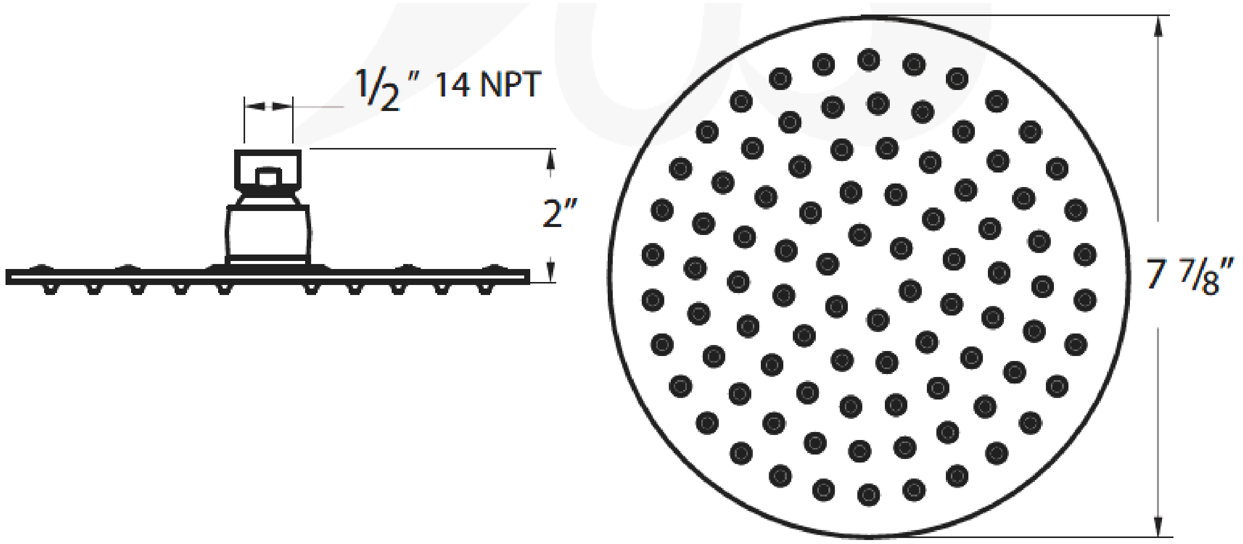
48. A specification sheet available for download on the Afeel website regarding Accused Products which have been designated with the model number P1327101 contains the following images, which reflect the design of those products:



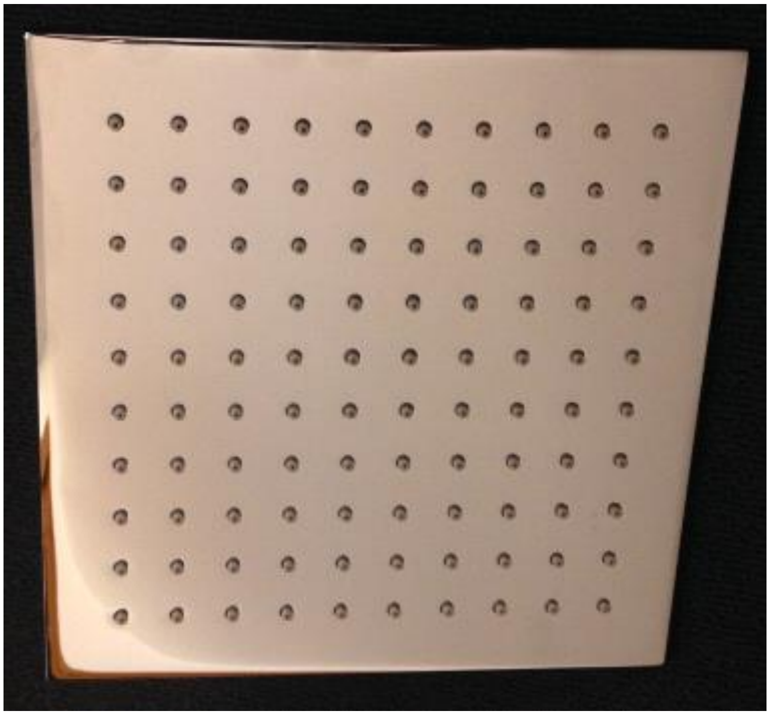
49. On information and belief, Accused Products which have been designated with the model number P1327129 have the same design as – but a different finish than -- Accused Products which have been designated with the model number P1327101.

50. On information and belief, Accused Products which have been designated with the model number P1327129 have satin nickel finish and Accused Products which have been designated with the model number P1327101 have a chrome finish.

51. A specification sheet available for download on the Afeel website regarding Accused Products which have been designated with the model number P1327129 contains the following images, which reflect the design of those products:



52. The following is an image of an Accused Product purchased in this district:



53. The following is an image from the ‘357 Patent that depicts a specific embodiment claimed by the ‘357 Patent:

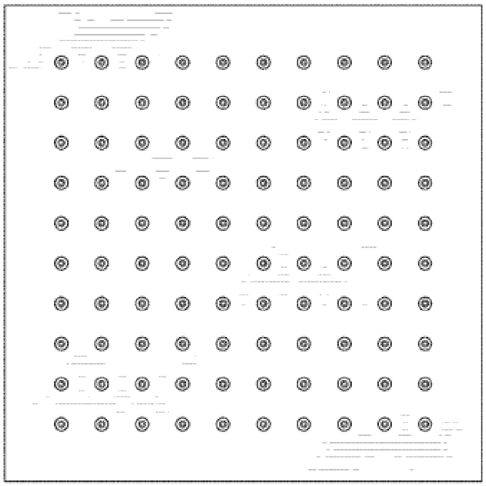


FIG. 39

54. The following is an additional image from the '357 Patent that depicts a specific embodiment claimed by the '357 Patent:

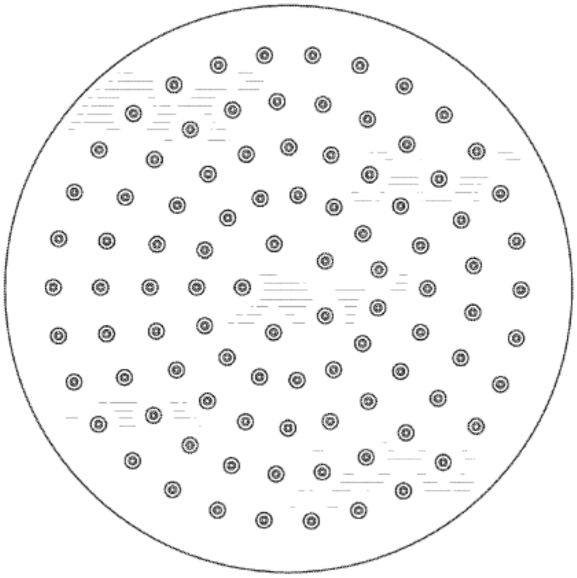


FIG. 11

55. The following is an image from the '991 Patent that depicts a specific embodiment claimed by the '991 Patent:

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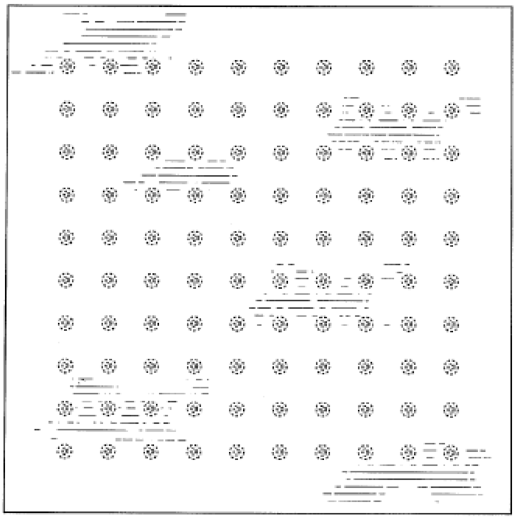

FIG. 39

56. The following is an additional image from the '991 Patent that depicts a specific embodiment claimed by the '991 Patent:

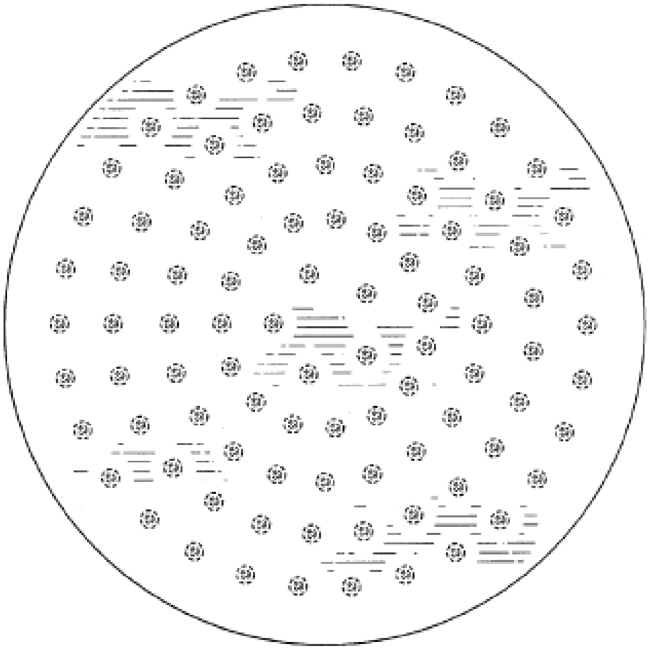

FIG. 11

COUNT I

(Infringement of the ‘357 Patent By Afeel)

57. Durst repeats and realleges the allegations set forth in Paragraphs 1 to 56 of this Complaint as if fully set forth herein.

58. The ‘357 Patent was duly and legally issued by the United States Patent and Trademark Office on November 26, 2013.

59. Durst is the owner by assignment of the ‘357 Patent, has been the owner by assignment of the ‘357 Patent since it issued, and has the right to sue for infringement of the ‘357 Patent.

60. Afeel has knowledge of the ‘357 Patent and of its infringing acts at least through the filing of this Complaint.

61. As explained above, Durst has marked and marks products with the ‘357 Patent in accordance with 35 U.S.C. § 287.

62. Afeel is and has been infringing, literally or under the doctrine of equivalents, the claim of the ‘357 Patent by making, using, offering to sell, exposing for sale, and/or selling showerheads embodying the invention of the ‘357 Patent, including at least the Accused Products, within the United States and/or by importing such showerheads, including at least the Accused Products, into the United States.

63. At the very least, an ordinary observer, familiar with the prior art designs, would be deceived into believing that the Accused Products are the same as the patented design of the ‘357 Patent.

64. Moreover, on information and belief, Afeel is indirectly infringing, literally or under the doctrine of equivalents, the claim of the ‘357 patent and will continue to do so.

65. On information and belief, Afeel provides and will continue to provide other third parties, such as retailers, with showerheads embodying the invention of the '357 Patent – including at least the Accused Products -- who subsequently use, offer to sell, expose for sale, and/or sell those products within the United States. On information and belief, the acts of those third parties benefit Afeel, for example, by leading to an increase in the sale and distribution of Afeel's products.

66. Accordingly, the third parties referenced in the preceding paragraph directly infringe, literally or under the doctrine of equivalents, the claim of the '357 Patent. On information and belief, Afeel is providing and will continue to provide showerheads embodying the invention of the '357 Patent -- including at least the Accused Products -- to those third parties during the time the '357 Patent is in force with the intent to cause those third parties to engage in the aforementioned infringing acts, which are meant to benefit Afeel (*i.e.*, at least the use, offer for sale, exposure for sale, and sale of such showerheads within the United States). Afeel has knowledge of the '357 Patent at least through the filing of this complaint and knows that the use, offer for sale, exposure for sale, and sale of showerheads embodying the invention of the '357 Patent – including at least the Accused Products -- within the United States by such third parties constitutes infringement of that patent. Afeel therefore actively induces and will continue to actively induce infringement of the '357 patent.

67. Durst has been damaged and irreparably harmed by Afeel's infringing activities and will continue to suffer damages and irreparable harm unless the Court enjoins Afeel from continuing these activities.

COUNT II

(Infringement of the '991 Patent By Afeel)

68. Durst repeats and realleges the allegations set forth in Paragraphs 1 to 67 of this Complaint as if fully set forth herein.

69. The ‘991 Patent was duly and legally issued by the United States Patent and Trademark Office on September 15, 2015.

70. Durst is the owner by assignment of the ‘991 Patent, has been the owner by assignment of the ‘991 Patent since it issued, and has the right to sue for infringement of the ‘991 Patent.

71. Afeel has knowledge of the ‘991 Patent and of its infringing acts at least through the filing of this Complaint.

72. Afeel is and has been infringing, literally or under the doctrine of equivalents, the claim of the ‘991 Patent by making, using, offering to sell, exposing for sale, and/or selling showerheads embodying the invention of the ‘991 Patent, including at least the Accused Products, within the United States and/or by importing such showerheads, including at least the accused products, into the United States.

73. At the very least, an ordinary observer, familiar with the prior art designs, would be deceived into believing that the Accused Products are the same as the patented design of the ‘991 Patent.

74. Moreover, on information and belief, Afeel is indirectly infringing, literally or under the doctrine of equivalents, the claim of the ‘991 patent and will continue to do so.

75. On information and belief, Afeel provides and will continue to provide other third parties, such as retailers, with showerheads embodying the invention of the ‘991 Patent -- including at least the Accused Products -- who subsequently use, offer to sell, expose for sale, and/or sell those products within the United States. On information and belief, the acts of those

third parties benefit Afeel, for example, by leading to an increase in the sale and distribution of Afeel's products.

76. Accordingly, the third parties referenced in the preceding paragraph directly infringe, literally or under the doctrine of equivalents, the claim of the '991 Patent. On information and belief, Afeel is providing and will continue to provide showerheads embodying the invention of the '991 Patent -- including at least the Accused Products -- to those third parties during the time the '991 Patent is in force with the intent that to cause those third parties to engage in the aforementioned infringing acts, which are meant to benefit Afeel (*i.e.*, at least the use, offer for sale, exposure for sale, and sale of such showerheads within the United States). Afeel has knowledge of the '991 Patent at least through the filing of this complaint and knows that the use, offer for sale, exposure for sale, and sale of showerheads embodying the invention of the '991 Patent – including at least the Accused Products -- within the United States by such third parties constitutes infringement of that patent. Afeel therefore actively induces and will continue to actively induce infringement of the '991 patent.

77. Durst has been damaged and irreparably harmed by Afeel's infringing activities and will continue to suffer damages and irreparable harm unless the Court enjoins Afeel from continuing these activities.

PRAYER FOR RELIEF

WHEREFORE, Durst respectfully requests that this Court enter judgment in its favor granting the following relief:

A. declaring that Afeel is and has been directly and/or indirectly infringing, literally or under the doctrine of equivalents, the claim of the '357 Patent;

B. issuing orders granting a preliminary injunction and a permanent injunction enjoining Afeel, its officers, its agents, its servants, its employees, its attorneys, and all those persons acting in active concert with or participating with any of them, including parties who receive Accused Products and any other products found to be covered by the claim of the '357 Patent from Afeel for the purpose of using, offering for sale, exposing for sale, and/or selling those products – as well as their successors and assigns – from making, using, offering to sell, exposing for sale, and/or selling the Accused Products as well as any other products found to be covered by the claim of the '357 Patent within the United States and/or from importing the Accused Products as well as any other products found to be covered by the claim of the '357 Patent into the United States until the expiration of the '357 Patent;

C. declaring that Afeel is and has been directly and/or indirectly infringing, literally or under the doctrine of equivalents, the claim of the '991 Patent;

D. issuing orders granting a preliminary injunction and a permanent injunction enjoining Afeel, its officers, its agents, its servants, its employees, its attorneys, and all those persons acting in active concert with or participating with any of them, including parties who receive Accused Products and any other products found to be covered by the claim of the '991 Patent from Afeel for the purpose of using, offering for sale, exposing for sale, and/or selling those products – as well as their successors and assigns – from making, using, offering to sell, exposing for sale, and/or selling the Accused Products as well as any other products found to be covered by the claim of the '991 Patent within the United States and/or from importing the Accused Products as well as any other products found to be covered by the claim of the '991 Patent into the United States until the expiration of the '991 Patent;

E. awarding Durst an accounting and damages resulting from infringement of the '357 Patent by Afeel in an amount no less than a reasonable royalty or any other minimum amount guaranteed under the law, including but not limited to damages pursuant to 35 U.S.C. §§ 284 and/or 289;

F. awarding Durst an accounting and damages resulting from infringement of the '991 Patent by Afeel in an amount no less than a reasonable royalty or any other minimum amount guaranteed under the law, including but not limited to damages pursuant to 35 U.S.C. §§ 284 and/or 289;

G. awarding Durst pre-judgment and post-judgment interest at the maximum allowable rate;

H. declaring this to be an exceptional case and awarding Durst attorneys' fees under 35 U.S.C. § 285;

I. awarding Durst its costs and expenses in this action; and

J. awarding Durst all other such relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Durst hereby requests a trial by a jury on all issues so triable.

Dated: May 18, 2017

s/Scott S. Christie
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CERTIFICATION PURSUANT TO L. CIV. R. 11.2

Pursuant to Local Civil Rule 11.2, I hereby certify that the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

Dated: May 18, 2017

s/Scott S. Christie

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CERTIFICATION PURSUANT TO L. CIV. R. 201.1

Pursuant to Local Civil Rule 201.1, I hereby certify that the matter in controversy is not subject to compulsory arbitration in that Plaintiff seeks, *inter alia*, injunctive relief.

Dated: May 18, 2017

s/Scott S. Christie
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